IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8213 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MAHENRABHAI A PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR AM RAVAL for Petitioner(s) : 1,
MR DIPEN DESAI, AGP for Respondent(s) : 1 - 3.
NOTICE NOT RECD BACK for Respondent(s) : 4,
(MR ANANT S DAVE) for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 10/01/2007

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the petitioner has

challenged the legality and validity of the Government Resolution dated 22.9.1980. It is also further prayed by the petitioner to exhaust the waiting list prepared by the Government since 1991 – 92 so far as Kheda District is concerned by giving employment to the petitioner.

2. It appears that initially various prayers were sought by the petitioner, however, at the time of admission hearing, the learned advocate appearing for the petitioner did not press prayers in terms of paragraphs – 16 (a), (c), (e) and (f) and therefore, this Court is required to consider the prayers in terms of paragraph – 16 (b) & (d). It appears that the petitioner has prayed for an appropriate order directing the respondents to exhaust the waiting list prepared by the Government since 1991-92 so far as Kheda District is concerned by giving employment to the petitioner. It is cardinal principle of law that a person, whose name is in the waiting list, cannot claim as a matter of

right the appointment. Even otherwise, as per the relevant recruitment rules, the validity of the selection list/waiting list is only for a period of 1 year and/or till the next selection list is prepared.

3. Under the circumstances, the prayer of the petitioner in terms of paragraphs – 16 (d) to exhaust the waiting list prepared by the Government since 1991-92 so far as Kheda District is concerned by giving employment to the petitioner, cannot be granted. So far as challenge to the Government Resolution dated 22.9.1980 is concerned, it is the contention on behalf of the petitioner that the same is in violation of Articles 14 and 21 of the Constitution of India. On going through the impugned Government Resolution, it appears that the Education Department and the State Government has issued the said resolution fixing the criteria to appoint the teacher per 50 students and thereafter, it has been provided that so far as Class - 1 and 2 are concerned,

upto 50 students, there shall be one teacher. From 60 to 100 students, two teachers can be appointed and if the strength of the students is between 100 to 150 then upto 3 teachers can be appointed and so on. It is the policy decision of the State Government and the Education Department to fix the norms and criteria for the appointment of the teachers considering the strength of the students by which, it cannot be said that any of the fundamental rights of the petitioner are violated.

4. For the reasons stated above, there is no substance in the present special civil application and the same is required to be dismissed and is accordingly dismissed. Rule is discharged. No costs.

[M.R.Shah, J.]

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